

Exhibit C

Joint Written Notice of Discovery Dispute

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FEDERAL TRADE COMMISSION

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10 UNITED STATES DISTRICT COURT

11 DISTRICT OF ARIZONA

12 Federal Trade Commission,

13 Plaintiff,

14 v.

15 Grand Canyon Education, Inc., *et al.*,

16 Defendants.

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No. CV-23-02711-PHX-DWL

**PLAINTIFF FEDERAL TRADE
COMMISSION'S REVISED FIRST
SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS TO
DEFENDANT GRAND CANYON
EDUCATION, INC.**

Pursuant to Federal Rule of Civil Procedure 34, Plaintiff Federal Trade Commission (“FTC” or “Commission”) requests that Defendant Grand Canyon Education, Inc. produce for examination, inspection, and copying the documents described below, within thirty (30) days, at the FTC’s office, 600 Pennsylvania Avenue, N.W., Mail Stop CC-6316, Washington, D.C. 20580, or at such time and place as may be agreed upon by counsel.

INSTRUCTIONS

1. The instructions set forth in Federal Rules of Civil Procedure 26 and 34 are incorporated herein by reference. Responses should be supplemented as required by Federal Rule of Civil Procedure 26(e).

2. If, after exercising due diligence to secure the responsive Documents, You cannot answer all or part of any request for production (“Request”) answer the Request to the extent possible, specifying why full compliance is not possible, stating whatever information or knowledge You have concerning the Documents You were not able to secure, and detailing what You did in attempting to secure the responsive Documents.

3. If You assert a claim of privilege in responding to or objecting to any Request, state the nature of the privilege and the basis for the claim in accordance with Federal Rule of Civil Procedure 26(b)(5).

4. If You timely object to any part of the Request, specifically state the reason(s) for the objection(s) and answer all parts of the Request to which You do not object.

5. In lieu of making documents available at the FTC’s office, You may send all responsive documents:

- a. Via overnight courier (such as Federal Express) to Esi Kovacs, Federal Trade Commission, 600 Pennsylvania Ave, NW, Mail Stop CC-10232, Washington, D.C. 20580; or

b. Via an encrypted online data transfer platform. Please contact Esi Kovacs by e-mail (ekovacs@ftc.gov) or phone (202-326-3691) if You would like to upload the responsive information via the FTC's encrypted online data transfer platform.

6. Produce Documents, including electronically stored information, in accordance with the attached production requirements.

7. If any material called for by these Requests contains Sensitive Personally Identifiable Information, please contact the FTC's counsel before sending those materials to discuss uploading those Documents via the FTC's encrypted online data transfer platform or encrypting any electronic copies of such material with encryption software such as Secure Zip and provide the encryption key in a separate communication. For purposes of these Requests, Sensitive Personally Identifiable Information includes: an individual's Social Security number alone; or an individual's name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver's license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number.

DEFINITIONS

All definitions and rules of construction set forth in the Federal Rules of Civil Procedure, including Rule 34, are incorporated herein by reference. In addition to those definitions and rules, the following terms used in these Requests shall have the meanings set forth as follows:

1. "All" means "any and all," and "any" means "any and all."

2. "And" and "or" shall be individually interpreted in every instance as meaning "and/or" and shall be construed as is necessary in each case to make each Request

1 inclusive rather than exclusive, and shall not be interpreted disjunctively to exclude any
2 information otherwise within the scope of any Request.

3 3. “**Communication**” means the transmittal of information by any means.
4 Requests for material Relating To Communications also include entries in the Company’s
5 customer management system or other database that memorialize or describe a
6 Communication.

7 4. “**Company**,” “**You**,” or “**Your**” means Grand Canyon Education, Inc. and
8 its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures,
9 operations under assumed names, predecessors, affiliates, and all directors, officers,
10 partners, members, employees, agents, consultants, and other persons working for or on
11 behalf of the foregoing.

12 5. “**Document**” shall have the meaning set forth in Rule 34 of the Federal
13 Rules of Civil Procedure, including, but not limited to, all writings (whether in printed or
14 recorded form or reproduced by any other mechanical process or written or reproduced by
15 hand), electronically stored information, internet web pages, tape and sound recordings
16 and also includes agreements, contracts, communications, correspondence, memoranda,
17 records of telephone conversations, notes, drafts, reports, notebooks, corporate resolutions
18 and minutes, recordings, and other data or data compilations stored in any medium from
19 which information can be obtained or translated, if necessary, by detection devices into
20 reasonably usable form. In addition, the term includes copies of documents that are not
21 identical duplicates to the originals, and copies of documents, the originals of which are
22 not in your possession, custody, or control. The term also includes e-mails, (whether they
23 reside on computer hard drives, servers, or back-up tapes) searchable and readable in
24 native format, and information stored in any modern word processing program, including
25 all reasonably current versions of WordPerfect, Google Docs, Apple Pages, and Microsoft
26 Word.

1 6. **“Doctoral Program”** means an academic program of the Grand Canyon
2 University College of Doctoral Studies that includes a dissertation requirement.

3 7. **“Established Business Relationship”** means a relationship between Grand
4 Canyon University and a consumer based on: (a) the consumer’s purchase, rental, or lease
5 of Grand Canyon University’s goods or services or a financial transaction between the
6 consumer and Grand Canyon University, within the eighteen (18) months immediately
7 preceding the date of a Telemarketing call; or (b) the consumer’s inquiry or application
8 regarding a product or service offered by Grand Canyon University, within the three (3)
9 months immediately preceding the date of a Telemarketing call.

10 8. **“Internal Do-Not-Call List”** means the list of telephone numbers of
11 persons who have stated that they do not wish to receive Outbound Telephone Calls from
12 the Grand Canyon University or any Telemarketer acting on behalf of the Grand Canyon
13 University.

14 9. **“National Do-Not-Call Registry”** means the registry of telephone numbers
15 maintained by the FTC, as set forth in 16 C.F.R. § 310.4(b)(1)(iii)(B).

16 10. **“Outbound Telephone Call”** means a telephone call initiated by the
17 Company or its agents to induce the purchase of goods or services or to solicit a charitable
18 contribution.

19 11. **“Relating To” or “Relate To”** means constituting, comprising, containing,
20 consisting of, setting forth, proposing, showing, disclosing, describing, or tending to
21 describe, identifying, pertaining to, discussing, explaining, evidencing, comprising,
22 indicating, analyzing, summarizing, authorizing, communicating about, or referring to
23 directly or indirectly.

24 12. **“Telemarketer”** means any person who, in connection with telemarketing,
25 initiates or receives telephone calls to or from consumers.

13. “**Telemarketing**” means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call.

14. “**Telemarketing Sales Rule**” or “**TSR**” means 16 C.F.R. Part 310.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All reports, analyses, memoranda, correspondence, emails, agendas, minutes of meetings, and recordings of conversations, regarding plans or proposals for the transfer of the Grand Canyon University campus and related assets to a nonprofit entity (including “Project Gazelle” and plans or proposals for the transfer of Grand Canyon University assets that developed into, or from “Project Gazelle”), including all records of Communications with members of the Grand Canyon University Board of Trustees, Wells Fargo, Bank of America, Barclays PLC, the Internal Revenue Service, the Department of Education, and the Higher Learning Commission, regarding such plans or proposals.

2. All records containing, discussing, or evaluating marketing plans in which Grand Canyon University would be advertised, or is described, as a nonprofit, and any projections, analyses, or evaluations of the impact of such advertising or descriptions on recruiting, enrollment, revenue, or costs. For purposes of this Request, marketing in which Grand Canyon University would be advertised, or is described, as a nonprofit includes any statements that the University has transitioned or reverted back to its non-profit roots; statements that the University is “Private. Christian. Affordable. Nonprofit.”; statements that the University is Arizona’s premier “Nonprofit Private Christian University”; and statements distinguishing the University from for-profit institutions.

3. All Documents Relating To the Company’s procedures for complying with 16 C.F.R. § 310.4(b)(1)(ii) and (iii), including Documents Relating To the adoption and implementation of such procedures; training associated with such procedures; monitoring or enforcing compliance with such procedures; the personnel responsible for

1 implementing, monitoring, and enforcing compliance with such procedures; reporting and
2 investigating alleged or suspected violations of 16 C.F.R. § 310.4(b)(1)(ii) and (iii) by the
3 Company or any Telemarketer acting on behalf of the Company; and the dates for the
4 above activities and any subsequent changes to these personnel, procedures, or activities.
5 This Request encompasses Documents Relating To Company procedures in effect on or
6 after July 1, 2018.

7 4. All Documents Relating To actions the Company has taken since July 1,
8 2018 in response to violations, or suspected or alleged violations, of the Telemarketing
9 Sales Rule, or the failure, or the suspected or alleged failure, of Company personnel or
10 contractors to follow the Company's policies or procedures for compliance with the
11 Telemarketing Sales Rule.

12 5. For all Outbound Telephone Calls since July 1, 2018 that the Company
13 contends were permissible because the conditions in 16 C.F.R. § 310.4(b)(iii)(B)(1) or 16
14 C.F.R. § 310.4(b)(iii)(B)(2) were satisfied at the time the Outbound Telephone Call was
15 initiated, produce all Documents that show the timing and circumstances of each call; all
16 summaries, spreadsheets, or databases identifying the basis for the Company's
17 contentions; and any documentation of an Established Business Relationship with, or an
18 agreement obtained from, the recipient of the Outbound Telephone Call, including all
19 forms, scripts, and recordings containing the terms of the agreement or Established
20 Business Relationship.

21 6. All records from the Company's contact management system and student
22 information system for individuals who received Outbound Telephone Calls since July 1,
23 2018 that the Company contends were permissible because the conditions in 16 C.F.R.
24 § 310.4(b)(iii)(B)(1) or 16 C.F.R. § 310.4(b)(iii)(B)(2) were satisfied at the time the
25 Outbound Telephone Call was initiated.

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1 7. Education Records, as defined by 20 U.S.C. § 1232g(a)(4), or other
 2 Documents recording Communications with students who enrolled in a Doctoral Program
 3 on or after June 17, 2019 that Relate To the terms or requirements for Doctoral Programs
 4 offered by Grand Canyon University, including all solicitations, applications, enrollment
 5 agreements, messages, e-mails, and cost projections, in any format.

6 8. All call recordings stored in the Calabrio system Relating To students
 7 enrolled in a Doctoral Program on or after June 17, 2019 until the present.

8 9. All Communications Relating To continuation courses for Doctoral
 9 Programs sent to or from University Counselors, University Development Counselors, and
 10 Student Services Counselors assigned to communicate with individuals who have enrolled
 11 in, or expressed an interest in, Doctoral Programs, and Communications sent to or from
 12 immediate supervisors of these counselors.

13 10. All Communications from students who enrolled in a Doctoral Program on
 14 or after June 17, 2019 that Relate To any students' complaints about a Doctoral Program,
 15 including the cost of such program, the number of courses or credits to be completed, and
 16 dissertation or continuation course requirements.

17 DATED: September 3, 2024

Respectfully submitted,

FEDERAL TRADE COMMISSION

20 By: /s/ Brian Berggren

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FEDERAL TRADE COMMISSION

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FEDERAL TRADE COMMISSION

In producing information to the FTC, comply with the following requirements, unless the FTC agrees otherwise. If you have questions about these requirements, please contact FTC counsel.

Production Format

1. **General Format:** Provide load-ready electronic productions with:

- a. A delimited data load file (.DAT) containing a line for every document, unique id number for every document (DocID), metadata fields, and native file links where applicable; and
- b. A document level text file, named for the DocID, containing the text of each produced document.

Do not produce corresponding image renderings (e.g., TIFF or JPEG) for files in native format unless the FTC requests them. If the FTC requests corresponding image renderings, provide an Opticon image load file (.OPT) containing a line for every image file.

2. **Electronically Stored Information (ESI):** Documents stored in electronic format in the ordinary course of business must be produced in the following format:

- a. For ESI other than the categories below, submit in native format with all metadata and either document level extracted text or Optical Character Recognition (OCR). Do not produce corresponding image renderings (e.g., TIFF or JPEG) for files in native format unless the FTC requests them. If the FTC requests corresponding image renderings, they should be converted to Group IV, 300 DPI, single-page TIFF (or color JPEG images when necessary to interpret the contents or render them intelligible.)
- b. For Microsoft Excel, Access, or PowerPoint files, submit in native format with extracted text and metadata. Data compilations in Excel spreadsheets or delimited text formats must contain all underlying data, formulas, and algorithms without redaction.
- c. For other spreadsheet, database, presentation, or multimedia formats; messaging applications and platforms (e.g., Microsoft Teams, Slack); or proprietary applications, discuss the production format with FTC counsel.

3. **Hard Copy Documents:** Documents stored in hard copy in the ordinary course of business must be scanned and submitted as either one multi-page pdf per document or as 300 DPI single page TIFFs (or color JPEGs when necessary to interpret the contents or render them intelligible), with corresponding document-level OCR text and logical document determination in an accompanying load file.

4. **Document Identification:** Provide a unique DocID for each hard copy or electronic document, consisting of a prefix and a consistent number of numerals using leading zeros. Do not use a space to separate the prefix from numbers.

5. **Attachments:** Preserve the parent/child relationship by producing attachments as separate documents, numbering them consecutively to the parent email, and including a reference to all attachments.
6. **Metadata Production:** For each document submitted electronically, include the standard metadata fields listed below in a standard delimited data load file. The first line of the data load file shall include the field names. Submit date and time data in separate fields. Use these standard Concordance delimiters in delimited data load files:

Description	Symbol	ASCII Character
Field Separator	¶	20
Quote Character	”	254
Multi Entry delimiter	®	174
<Return> Value in data	~	126

7. **De-duplication:** Do not use de-duplication or email threading software without FTC approval.
8. **Password-Protected Files:** Remove passwords prior to production. If password removal is not possible, provide the original and production filenames and the passwords, under separate cover.

Producing Data to the FTC

1. Prior to production, scan all data and media for viruses and confirm they are virus-free.
2. For productions smaller than 50 GB, submit data electronically using the FTC’s secure file transfer protocol. Contact FTC counsel for instructions. **The FTC cannot accept files via Dropbox, Google Drive, OneDrive, or other third-party file transfer sites.**
3. If you submit data using physical media:
 - a. Use only CDs, DVDs, flash drives, or hard drives. Format the media for use with Windows;
 - b. Use data encryption to protect any Sensitive Personally Identifiable Information or Sensitive Health Information (as defined in the instructions), and provide passwords in advance of delivery, under separate cover; and
 - c. Use a courier service (e.g., Federal Express, UPS) because heightened security measures delay postal delivery.
4. Provide a transmittal letter with each production that includes:
 - a. Production volume name (e.g., Volume 1) and date of production;
 - b. Numeric DocID range of all documents in the production, and any gaps in the DocID range; and
 - c. List of custodians and the DocID range for each custodian.

Standard Metadata Fields

DAT FILE FIELDS	DEFINITIONS	POPULATE FIELD FOR:
DocID	Unique ID number for each document	All Documents
FamilyID	Unique ID for all documents in a family including parent and all child documents	All Documents
ParentID	Document ID of the parent document. This field will only be populated on child items	All Documents
File Path	Path to produced native file	All Documents
TextPath	Path to document level text or OCR file	All Documents
Custodian	Name of the record owner/holder	All Documents
AllCustodians	Names of all custodians that had copy of this record (populate if data was deduplicated or email threading was used)	All Documents
Source	Source of documents: CID, Subpoena, Third Party Data, etc.	All Documents
Filename	Original file name	All Documents
File Size	Size of documents	All Documents
File Extensions	Extension of file type	All Documents
MD5 Hash	Unique identifier for electronic data used in de-duplication	All Documents
PRODUCTION_VOLUME	Production Volume	All Documents
HASREDACTIONS	Redacted document	All Documents
Exception Reason	Reason for exception encountered during processing (e.g., empty file, source file, password-protected file, virus)	All Documents
PRODBEG	Beginning production bates number	Documents with Produced Images
PRODEND	Ending production bates number	Documents with Produced Images
PRODBEG_ATTACH	Beginning production family bates number	Documents with Produced Images
PRODEND_ATTACH	Ending production family bates number	Documents with Produced Images
Page Count	The number of pages the document contains	Documents with Produced Images
From	Names retrieved from the FROM field in a message	Emails
To	Names retrieved from the TO field in a message; the recipient(s)	Emails
CC	Names retrieved from the CC field in a message; the copied recipient(s)	Emails
BCC	Names retrieved from the BCC field in a message; the blind copied recipient(s)	Emails
EmailSubject	Email subject line	Emails
Date Sent	The date an email message was sent	Emails
Time Sent	The time an email message was sent	Emails
Date Received	The date an email message was received	Emails
Time Received	The time an email message was received	Emails
Author	File Author	Loose Native Files and Email Attachments
Title	File Title	Loose Native Files and Email Attachments
Subject	File Subject	Loose Native Files and Email Attachments
Date Created	Date a document was created by the file system	Loose Native Files and Email Attachments
Time Created	Time a document was created by the file system	Loose Native Files and Email Attachments
Date Modified	Last date a document was modified and recorded by the file system	Loose Native Files and Email Attachments
Time Modified	Last time a document was modified and recorded by the file system	Loose Native Files and Email Attachments
Date Printed	Last date a document was printed and recorded by the file system	Loose Native Files and Email Attachments
Time Printed	Last time a document was printed and recorded by the file system	Loose Native Files and Email Attachments